

HOUSE BILL 2285

By Jones

AN ACT to amend Tennessee Code Annotated, Title 39,
Chapter 13, Part 5; Title 39, Chapter 16, Part 4
and Title 41, relative to sexual offenses.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-16-408, is amended by adding the following language as subsection (c) and redesignating the existing subsection accordingly:

(1) It is an offense for a prisoner or inmate who is in custody at a penal institution as defined in § 39-16-601 to intentionally engage in sexual contact or sexual penetration, as such terms are defined in § 39-13-501, with a law enforcement officer, correctional employee, a member of the medical staff, vendor, or volunteer, whether the conduct occurs on or off the grounds of the institution.

(2) As used in this subsection (c), “member of the medical staff”:

(A) Means a person who is licensed, certified, or otherwise authorized or permitted by the laws of this state to administer health care in the ordinary course of business in the practicing of a profession; and

(B) Includes, but is not limited to, doctors, physicians, surgeons, nurses, pharmacists, undertakers, embalmers, or other persons called upon to render aid to prisoners or inmates in the custody of a penal institution.

SECTION 2. Tennessee Code Annotated, Title 39, Chapter 13, Part 5, is amended by adding the following language as a new section:

(a) For the purposes of this section:

(1) “Law enforcement officer” and “correctional employee” include:

(A) A person working in that capacity as a private contractor or employee of a private contractor; and

(B) Medical staff employed by the state in a correctional facility, a private contractor in a correctional facility, or employee of a private contractor in a correctional facility;

(2) "Member of the medical staff":

(A) Means a person who is licensed, certified, or otherwise authorized or permitted by the laws of this state to administer health care in the ordinary course of business in the practicing of a profession; and

(B) Includes, but is not limited to, doctors, physicians, surgeons, nurses, pharmacists, undertakers, embalmers, or other persons called upon to render aid to prisoners or inmates in the custody of a penal institution;

(3) "Sexual offense" means the commission of any act that constitutes the criminal offense of:

(A) Aggravated rape, under § 39-13-502;

(B) Rape, under § 39-13-503;

(C) Aggravated sexual battery, under § 39-13-504;

(D) Sexual battery, under § 39-13-505;

(E) Statutory rape or aggravated statutory rape, under § 39-13-506;

(F) Sexual exploitation of a minor, under § 39-17-1003;

(G) Aggravated sexual exploitation of a minor, under § 39-17-1004;

(H) Especially aggravated sexual exploitation of a minor, under § 39-17-1005;

(I) Rape of a child, under § 39-13-522;

(J) Sexual battery by an authority figure, under § 39-13-527;

(K) Solicitation of a minor, under § 39-13-528;

(L) Criminal attempt, under § 39-12-101, solicitation, under § 39-12-102, or conspiracy, under § 39-12-103, to commit any of the offenses enumerated within this subdivision (a)(3); and

(M) Criminal responsibility under § 39-11-402(2), facilitating the commission under § 39-11-403, or being an accessory after the fact under § 39-11-411 with regard to any of the offenses enumerated in this subdivision (a)(3); and

(4) "Volunteer" means any person who, after fulfilling the appropriate policy requirements, is assigned to a volunteer job at the correctional agency and provides a service without pay from the correctional agency, except for compensation for those expenses incurred directly as a result of the volunteer service.

(b) It is an offense for a prisoner or inmate who is in custody at a penal institution as defined in § 39-16-601 to commit a sexual offense against a law enforcement officer, correctional employee, member of the medical staff, vendor, or volunteer, acting in the discharge of any such person's duty, whether the conduct occurs on or off the grounds of the institution.

(c) A violation of this section shall be punished one (1) classification higher than the punishments provided for in each offense listed in subdivision (a)(3).

(d) An employee of the correctional facility or member of the medical staff shall not suffer any of the prohibited retaliatory actions specified in § 8-50-116 for reporting to, or cooperating with, the department for a violation of this section. Any person who knowingly and willingly retaliates or takes adverse action of any kind against any person

for reporting alleged wrongdoing pursuant to this section, commits a Class A misdemeanor.

SECTION 3. Tennessee Code Annotated, Title 41, Chapter 51, is amended by adding the following language as a new section:

No later than the thirtieth day of each month, the department shall submit to the chairs of the state and local government committee of the senate, the state government committee of the house of representatives, the local government committee of the house of representatives, the judiciary committee of the senate, the criminal justice committee of the house of representatives, the speakers of the senate and the house of representatives, and the comptroller of the treasury, a report detailing:

(1) The number of sexual offenses that occurred in each correctional facility during the preceding month; and

(2) The training plans implemented during the preceding month for any staff involved in a sexual offense and a description of the training plans that will be offered during the following month to decrease the number of sexual offenses at the penal institution.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.